

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Amendment of Section 90.494)
of the Commission's Rules and)
Regulations Concerning Shared Use)
of 900 MHz Paging Frequencies)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RM-7986

To: The Commission

COMMENTS OF DIAL-A-PAGE, INC.

Dial-A-Page, Inc. (DAP) hereby submits its comments regarding the "Petition for Rule Making" (Petition) submitted April 24, 1992 by the Association for Private Carrier Paging (APCP) Section of the National Association of Business and Educational Radio, Inc. (NABER). For the reasons set forth below, DAP recommends consolidation of APCP's Petition with the Commission's ongoing inquiry in PR Docket No. 91-170 respecting spectrum efficiency in the lower frequency Private Land Mobile Radio Bands and the expansion of that docket to include some of the concepts proposed by APCP for the 900 MHz band.

1. DAP operates a wide-area Private Carrier Paging (PCP) network on the frequency 157.74 MHz. That system is in operation in Arkansas and Mississippi and will soon be extended to additional states.^{1/} DAP is a Class I member of NABER's APCP Section.^{2/} Because members were not consulted prior to the filing of the Petition or the adoption by APCP of the positions

1/ DAP also is licensee of a radio common carrier paging system with transmitting facilities in four states. It has been a Commission licensee since 1981.

2/ This is the highest level of membership.

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taken in the Petition, DAP is filing these separate comments. DAP urges the Commission to consider all of the facts affecting smaller PCP and rural PCP operators, including certain pertinent considerations not mentioned in the APCP petition.

2. DAP supports the concept of exclusivity for PCP systems. So long as paging channels are being substantially utilized, it is more spectrum efficient to award them on an exclusive basis.^{3/} Techniques used to share a channel inevitably reduce the overall spectrum efficiency of that channel. APCP's proposal for exclusive use by PCP systems only of 900 MHz channels does not, however, go far enough. As APCP notes, the Commission has under consideration in PR Docket No. 91-170 the potential exclusive licensing of channels used by PCP systems in the 150 and 460 MHz bands (Petition, fn. 28, citing Notice of Inquiry, 6 FCC Rcd 4126, 4133 (1991)). APCP has supported its 900 MHz exclusivity proposal by stating that such exclusivity would "encourage 150 MHz and 460 MHz PCP operators to migrate to the 900 MHz band..." (Petition, p. 8). It has not, however, demonstrated that encouragement of migration to the 900 MHz band is necessary or advisable, particularly with reference to most of

^{3/} DAP supports APCP's proposal that transmitters be afforded exclusivity protection only if they have an output power of at least 100 watts and simulcast capability and are part of a functioning paging system. DAP proposes in addition, though, that reasonable loading must be demonstrated within one year of system activation for a licensee to maintain exclusivity.

the country, which has no congestion in the lower PCP frequencies. The Commission must consider rule changes for the 900 MHz PCP frequencies together with policy and rule changes for the lower frequency bands if a logical, consistent, and fair policy is to be formulated. The forthcoming rule-making stage of PR Docket No. 91-170 would be a logical place for this comprehensive analysis and for consideration of APCP's Petition, through expansion of the scope of that proceeding.

3. In the event the Commission chooses to move forward with separate rule making to govern 900 MHz PCP licensing, DAP has the following observations concerning APCP's proposal. First, DAP supports the provision of protection and exclusivity to PCP systems which are classified as "Local" and "Regional." Consideration should be given to the loading of a channel as well as whether or not transmitters have been constructed on the channel, so that exclusivity is "earned" by a carrier through actual use of the channel. DAP agrees with the proposal that protection be accorded to "Local" systems composed of six transmitters serving contiguous areas (except that eighteen transmitters would be required for protection of systems in the New York, Los Angeles and Chicago MSAs).

4. Second, the 12-state "Regional" system definition proposed by APCP is not grounded in any analysis of functional economic regions. Most operating regional systems cover far fewer than twelve states. Applicants should be permitted to

define "Regional" systems covering single states or several adjacent states. This would accord with the reality of both private carrier and common carrier paging systems in operation today. A "Regional" system should be given protection only when the licensee has constructed and commenced operation of transmitters serving no less than a designated portion of the applicant-defined region. For example, protection might be accorded to a licensee serving at least half of the land area within its region. As with "Local" systems, the Commission should devise some kind of loading standard to insure that exclusivity is deserved.

5. Third, APCP has failed to support its proposal for exclusive award of National System channels. Nothing in the APCP Petition suggests that there is sufficient demand for nationwide conventional paging services of the type which would be provided on the 900 MHz PCP channels to justify adoption of its proposal. Public demand for nationwide paging service is presently being filled by several common carrier-licensed nationwide paging systems, and at least one lower band PCP-based system. Moreover, the Commission presently has under consideration the allocation of one megahertz of spectrum at 932 MHz for "Advanced Paging Systems." Many of the proponents of those systems are proposing nationwide systems which would provide innovative services different from those presently offered by the existing nationwide paging service providers.

6. The APCP proposal to extend automatic nationwide protection to a PCP licensee which has licensed or proposed a total of 300 transmitters, without regard to the location or eventual loading of those transmitters, would likely remove too many 900 MHz channels from the pool available for local and regional service.^{4/} DAP believes that smaller urban and rural areas in particular would be deprived of 900 MHz channels under APCP's proposal.

7. APCP acknowledges that "there are some existing 900 MHz PCP systems which may already be entitled to protection under the criteria proposed herein," and that "existing systems which do not currently meet the criteria may be able to "grow into protection." (Petition, p. 14). DAP believes that it would be unfair to modify the licenses of existing 900 MHz PCP licensees to extend nationwide frequency protection. The Commission must first determine how many of the forty 900 MHz PCP channels should be allocated for nationwide service, based on some reasonable demand estimates. Then the Commission should permit any qualified entity to file for any such nationwide channels after notice-and-comment rule making and adequate public notice. While modification of present PCP licenses and their reclassification

^{4/} By contrast, the Commission has required applicants for 220 MHz frequency pairs proposing nationwide systems to construct base stations in a minimum of 28 of the urban areas listed in Section 90.741 of the rules within ten years of initial license grant in order to maintain channel exclusivity, thus insuring the true nationwide reach of any system constructed on the channels reserved for nationwide service.

as protected Local and Regional systems would be reasonable, the removal of channels on a nationwide basis would have too drastic an impact on overall availability of spectrum for new entrants and expansion of existing PCP systems. DAP believes that there are already entities filing applications for 900 MHz spectrum in anticipation of adoption by the Commission of the APCP proposals. The Commission should move quickly to quash such spectrum speculation by proposing reasonable rule modifications for PCP channel protection on a local and regional, but not nationwide, basis. DAP believes a Notice of Proposed Rule Making addressing the channel exclusivity aspects of PR Docket 91-170 consolidated with the APCP Petition would be the appropriate vehicle for further action.

WHEREFORE, the Petition should be denied in part and granted in part as indicated herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Artie King, Secretary in the law office of Schwartz, Woods & Miller do hereby certify that I have on this 10th day of June 1992 sent by first class United States mail, postage prepaid, copies of the foregoing **COMMENTS OF DIAL-A-PAGE, INC.** to the following:

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